REMARKS

Claims 1-17 are pending in this application. Claims 1-8 and 10-13 have been amended. For the reasons explained below, the application, as amended, is believed to be in condition for allowance.

The disclosure was objected to because identification of the design patent on page 1 was needed. The specification has been amended, as requested, to include identification of the design patent.

Claims 1-5 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dobbins, et al. (U.S. Patent No. 5,203,481). Dobbins, et al. discloses a collar (or caddy) for supporting a drink bottle from a strap. Claim 1 has been amended to recite a combination including a woodwind musical instrument. Dobbins, et al. does not teach or suggest use of its collar for supporting a musical instrument. In addition, both claim 1 and claim 13 require that the brace form an inner closed loop presenting at least three inside contact points for contacting and supporting the woodwind musical instrument. The collar of Dobbins, et al. is affixed to a drink bottle by removing the bottle cap, placing the collar around the neck of the bottle, and reaffixing the cap. The bottle is supported in the collar by the contact between the cap and an upper surface of the collar. The collar of Dobbins, et al. does not provide inside contact points that support the drink bottle. Claims 1 and 13, as well as their dependent claims are therefore believed to be in condition for allowance.

Although in certain described embodiments of Dobbins, et al. the collar is tapered to closely match the shape of a bottle neck (*see* Col. 4, lines 48-61), and thereby potentially provides inside contact points, this is for a purpose inapposite to that of the present invention. Because the taper of Dobbins, et al. extends outwardly from a top surface of the collar, it does not provide a support surface using inside contact points. Rather, as stated above, the interface between the cap and the upper surface of the collar provides the support. If the cap of Dobbins, et al. were removed, the bottle would no longer be supported in the collar.

Amended claims 4 and 5 of the application recite an inside surface of the closed loop that is tapered to match an upwardly expanding diameter of a woodwind musical instrument. In this configuration, the claimed taper is able to provide support for the woodwind musical instrument. The taper of Dobbins, et al. expands the other direction and does not provide the benefits of the taper recited in these claims.

Claims 6-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dobbins, et al. in view of Thomas (U.S. Patent No. 6,283,346). Thomas also relates to a device for supporting a drinking bottle. It should be noted that Dobbins, et al. and Thomas

are non-analogous art. One of ordinary skill in the art of woodwind music instruments would not look to the art of drinking bottles for a solution to the problem of supporting a woodwind music instrument. Among other things, woodwind music instruments must be supported in a way that does not impair their playability. There is no such requirement for drinking bottles.

In any event, claim 6 has been amended to require the closed loop to provide an internal surface tapered to match an upwardly expanding diameter of a shaft of the woodwind musical instrument. Neither Dobbins, et al. or Thomas teach or suggest such a feature. As discussed previously, the tapered surface of Dobbins, et al. expands downwardly rather than upwardly. Claim 6, and its dependent claims 7-11 are therefore believed to be in condition for allowance.

Claims 6-8, 11, 13, 15, and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thomas. As explained above, claim 6 has been amended to recite that the closed loop includes a tapered internal surface. This is not disclosed in Thomas. With respect to claim 13, claim 13 is amended to require procuring a woodwind instrument. This is also not taught in Thomas.

Claims 12, 14, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas. As indicated previously, Thomas is believed to be non-analogous art to the instant invention. In any event, claim 12 depends from amended claim 6 and is therefore believed to be in condition for allowance for the reasons addressed earlier with respect to claim 6. In addition, amended claim 12 refers to a recorder structure that is not taught or disclosed by Thomas. Amended claim 13, as discussed previously, requires procuring a woodwind instrument. This is also not taught in Thomas. Claims 14 and 16 depend from claim 13. For these reasons, claims 12, 14, and 16 are also believed to be in condition for allowance.

For the foregoing reasons, reconsideration and allowance of claims 1-17 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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Deanna Bruce

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

The paragraph beginning on page 1, line 13 has been rewritten as follows:

This is a continuation-in-part application from [presently pending] co-pending U.S. Design Patent Application Serial No. [[UNKNOWN.DES.PAT.SER.NO.]]29/151,699, filed on November 6, 2001, now U.S. Design Patent No. D465,404 S, the disclosure of which is hereby incorporated by reference.

IN THE CLAIMS

The claims have been amended as follows:

1. (Amended) A combination comprising:

a woodwind musical instrument comprising a shaft; and

a device for supporting [a] the woodwind musical instrument on a neck of a user, wherein the device [comprising] comprises:

a strap for looping around the neck; and

a brace forming a closed loop that presents at least three inside contact points, the three inside contact points delineating a support circle for contacting the shaft and supporting the woodwind musical instrument [receiving the instrument therein], the brace further [forming] comprising at least two distinct [tying] connection sections, [in which] wherein ends of the strap are [tied] connected to the [tying] connection sections without any portions of the strap intruding [in] into the support circle.

2. (Amended) The device of claim 1, [in which] wherein the [tying] connection sections are formed opposite each other on the brace.

3. (Amended) The device of claim [1] 2, [in which] wherein [the] ends of the strap are tied around the [tying] connection sections.

4. (Amended) The device of claim 1, in which [the brace forms

a first part perimeter that includes the inside contact points, and

a second part perimeter that corresponds to the tying sections] the closed loop presents an internal surface that is tapered to match an upwardly expanding diameter of the woodwind musical instrument.

5 (Amended) The device of claim [1] 4, [in which the closed loop presents an internal surface that is tapered] wherein the tapered internal surface supports the woodwind musical instrument.

6. (Amended) A device for supporting a woodwind musical instrument on a user, comprising:

a strap for looping around a neck of the user; and

a brace forming a closed loop for receiving the instrument therein, the brace further forming two [tying] openings distinct from each other, in which ends of the strap are passed through the [tying] openings and are [enlarged to be] prevented from exiting therefrom, without any portion of the strap intruding in the closed loop,

wherein the closed loop comprises an internal surface that is tapered to match an upwardly expanding diameter of a shaft of the woodwind musical instrument.

7. (Amended) The device of claim 6, [in which the tying openings are formed opposite each other on the brace] wherein the tapered internal surface supports the woodwind musical instrument.

8. (Amended) The device of claim 6, in which the brace is shaped such that [an inside] the internal surface of the closed loop is cylindrical and provides multiple contact points for contacting the shaft and supporting the woodwind musical instrument.

9. The device of claim 6, in which the brace further includes a skirt transverse to a plane of the tying openings.

10. (Amended) The device of claim [6] 9, [in which the closed loop presents an internal surface that is tapered] further comprising ribs extending between the skirt and the closed loop.

11. (Amended) The device of claim 6, in which the [ends are enlarged by being tied in knots upon themselves] woodwind musical instrument is a recorder.

12. (Amended) The device of claim [6] 11, in which the [ends are enlarged by being heated] recorder is a two-piece recorder being separable at a separation point along the shaft thereof, and wherein the shaft of the two-piece recorder gradually increases in diameter from the separation point to a mouth piece end.

13. (Amended) A method for making a support device for a woodwind instrument comprising:

procuring a woodwind instrument;

procuring a strap having two ends;

procuring a brace forming a closed loop that presents at least three inside contact points, the inside contact points delineating a support circle for supporting the woodwind instrument therein; and

attaching the two ends of the strap to respective tying sections of the brace such that no portion of the strap intrudes [in] into the support circle.

14. The method of claim 13, in which attaching one of the ends includes tying a knot around the tying section.

15. The method of claim 13, in which a tying section includes a tying opening, and attaching includes passing the end of the strap through the tying opening, and then enlarging it to prevent it from being withdrawn from the tying opening.

16. The device of claim 15, in which the end is enlarged by being heated.

17. The device of claim 15, in which the end is enlarged by being tied in a knot upon itself.